

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY
COMMONWEALTH OF PENNSYLVANIA
22ND JUDICIAL DISTRICT

JOHN J. MARTIN ESQUIRE, AS EXECUTOR OF:
THE ESTATE OF GREGORY C. SCHEER SR.,
AND KAREN SCHEER, INDIVIDUALLY,

PLAINTIFFS,

vs.

WAL-MART ASSOCIATES, INC.,
WAL-MART STORES EAST, LP,
ENERCO GROUP INC.,
AND MR. HEATER INC.,
DEFENDANTS.

CIVIL ACTION

NO. 256 -2020-CIVIL

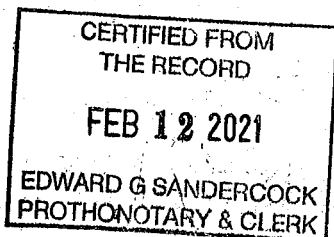
NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Northeastern Pennsylvania Legal Services, Inc.
Wayne County Courthouse
Court Street
Honesdale, PA 18431
(570) 253-1031

PROTHONOTARY AND
CLERK OF COURTS
WAYNE COUNTY, PA
2021 FEB 12 A 11:19



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DEFENDANTS. :

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PROTHONOTARY AND
CLERK OF COURTS
WAYNE COUNTY, PA
2021 FEB 12 A 11:18

COMPLAINT FOR DAMAGES

AND NOW COMES, John J. Martin, Esquire, as Executor of the Estate of Gregory C. Scheer, Sr., and Karen Scheer, individually, by and through their attorney, John J. Martin II, Esquire and files this Complaint for Damages as follows:

PARTIES AND FACTS

1. That Plaintiff, John J. Martin, Esquire is the duly appointed executor of the Estate of Gregory C. Scheer, Sr. and maintains a mailing address of Law Offices of John J. Martin located at 1022 Court Street, Honesdale, Pennsylvania 18431. A copy of the Letters of Administration are attached hereto, made a part hereof and labeled Exhibit "A".

2. That Plaintiff, Karen Scheer is the surviving spouse of Gregory C. Scheer Sr., and maintains a mailing address at c/o Law Offices of John J. Martin located at 1022 Court Street, Honesdale, Pennsylvania 18431.

3. That Gregory C. Scheer, Sr. passed away on or about December 7, 2019, in Wayne County, Pennsylvania. An original Death Certificate is in Plaintiffs' Possession and is recorded in the Wayne

Courthouse, a place holder for the Certificate is made a part hereof and labeled Exhibit "B".

4. That Plaintiffs believe and therefore aver that at all time relevant hereto, Defendants WAL-

CERTIFIED FROM
THE RECORD

FEB 12 2021

EDWARD G SANDERCOCK
PROTHONOTARY & CLERK

MART ASSOCIATES, INC. and WAL-MART STORES EAST, LP, were conducting business at the Walmart Store located at 777 Old Willow Avenue, Honesdale, Wayne County, Pennsylvania 18431.

5. That Defendants, WALMART ASSOCIATES and WALMART STORES EAST, LP, are Arkansas Corporations with their principal offices at 702 SW 8th Street, Bentonville, Arkansas 72716.

6. That Defendants, ENERCO GROUP INC. and MR HEATER INC., are Ohio Corporations with their principal offices at 4560 West 160th Street, Cleveland, Ohio 44135.

7. That Plaintiffs believe and therefore aver that at all time relevant hereto, Defendants, ENERCO GROUP INC. and MR. HEATER INC., were in the business of manufacturing the propane heating unit commonly referred to as the "Portable BUDDY".

8. That on or about December 3, 2019, the deceased Gregory C. Scheer Sr. purchased a "Portable BUDDY" from the Walmart store located at 777 Old Willow Avenue, Honesdale, Wayne County, Pennsylvania 18431 ("Portable Heater"). A copy of the receipt evidencing said purchase is attached hereto, made a part hereof and labeled Exhibit "C".

9. That the deceased Gregory C. Scheer Sr. was killed on or about December 7, 2019, when the Portable Heater that he was using in his deer hunting stand exploded. A copy of the Coroner's Autopsy Report is attached hereto, made a part hereof and labeled Exhibit "D".

10. That as a direct result of negligence on the part of the Defendants, ENERCO GROUP INC., and MR. HEATER INC., in the engineering, design, and/or manufacturing of the Portable Heater, Gregory C. Scheer, Sr. was killed through no negligence of his own.

11. That the Portable Heater sold to the deceased Gregory C. Scheer, Sr. by Defendants, WAL-MART ASSOCIATES, INC. and WAL-MART STORES EAST LP, was defective and caused the death of the deceased Gregory C. Scheer Sr. through no negligence of his own.

12. That Plaintiff, Estate of Gregory C. Scheer Sr. possesses a cause(s) of action against the Defendants based upon "survivorship".

13. That Plaintiff, Karen Scheer, possesses a cause(s) of action against the Defendants based up claims for the wrongful death of Gregory C. Scheer, Sr.

COUNT I – NEGLIGENCE

14. Plaintiffs re-allege and incorporate by reference the allegations contained in Paragraph 1 through 14 of this Complaint.

15. Defendants, ENERCO GROUP INC. and MR. HEATER INC., designed and/or assembled the Portable Heater defectively. Accordingly, Defendants owed a duty to Gregory Scheer Sr., the end user, that the product be designed and/or assembled in such a way that made the Portable Heater safe for its intended purpose.

16. Defendants, ENERCO GROUP INC. and MR. HEATER INC., knew or should have known when designing and/or assembling the Portable Heater that it was designed and/or assembled defectively, creating an unreasonable risk of injury for Gregory Scheer Sr., the end user.

17. Defendants, ENERCO GROUP INC. and MR. HEATER INC., were negligent in failing to properly design, manufacture, install, and communicate the defect in the system to Gregory Scheer, Sr., creating a clear and immediate risk of death or serious injury to the end users of the Portable Heater. As a direct and proximate result, Gregory Scheer Sr. sustained severe conscious pain and suffering between the time of the explosion and the time of his death sometime later.

18. His Estate sustained additional expenses, including, but not limited to funeral expenses. Plaintiff, Karen Scheer, surviving widow of Gregory Scheer Sr. sustained pecuniary loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of care, loss of attention, loss of advice, loss of training, loss of counsel and loss of guidance.

WHEREFORE, Plaintiffs demand judgment against the Defendants for One Million (\$1,000,000.00) Dollars and 00/100 in compensatory damages plus interest and cost.

COUNT II – STRICT LIABILITY

19. Plaintiffs re-allege and incorporate by reference the allegations contained in Paragraphs 1 through 18 of this Complaint.

20. Defendants, WALMART STORES ASSOCIATES and WALMART STORES EAST LP participated in the sale of a defective Portable Heater that was assembled and/or designed by Defendants,

ENERCO GROUP INC. and MR. HEATER INC.

21. Defendants, ENERCO GROUP INC. and MR. HEATER INC., designed and/or assembled the Portable Heater which contained a defective condition because the design and/or assembly were defective and unsafe.

22. This defect in design and/or assembly made the Portable Heater unreasonably dangerous.

23. The designed and/or assembled by Defendants, ENERCO GROUP INC. and MR. HEATER INC., and sold by Defendants, WALMART STORES ASSOCIATES and WALMART STORES EAST LP, remained unchanged and was in the same condition at the time of the injury herein alleged.

24. As a direct and proximate cause of Defendants design and/or assembly and/or sale of the product, Gregory Scheer Sr. sustained severe conscious pain and suffering between the time of the explosion and the time of his death sometime later. His Estate sustained additional expenses, including, but not limited to funeral expenses and medical bills. Plaintiff, Karen Scheer, surviving widow of Gregory Scheer Sr. sustained pecuniary loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of care, loss of attention, loss of advice, loss of training, loss of counsel and loss of guidance.

WHEREFORE, Plaintiffs demand judgment against the Defendants for One Million (\$1,000,000.00) Dollars and 00/100 in compensatory damages plus interest and cost.

COUNT III – WRONGFUL DEATH

25. Plaintiffs re-allege and incorporate herein by reference the allegations in paragraphs 1 – 24 of this Complaint.

26. That Plaintiff, Karen Scheer, possesses a claim for wrongful death pursuant to 42 Pa.C.S.A. §8301 and this action was commenced within the time period prescribed by Statute.

27. As a direct and proximate result of the Defendants' negligence in designing and/or assembling of the defective Portable Heater. Plaintiff, Karen Scheer, surviving widow of Gregory Scheer Sr. sustained pecuniary loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of care, loss of attention, loss of advice, loss of

training, loss of counsel and loss of guidance.

WHEREFORE, Plaintiff, Karen Scheer, demands judgment against the Defendants for One Million (\$1,000,000.00) Dollars and 00/100 in compensatory damages plus interest and cost.

COUNT IV- SURVIVAL ACTION

28. Plaintiffs reallege and incorporate herein by reference the allegations in paragraphs 1 through of this Complaint.

29. That Plaintiff John J. Martin, Esquire, as Executor of the Estate of Gregory Scheer Sr., possesses a claim for Survivorship pursuant to 42 Pa.C.S.A. § 8302.

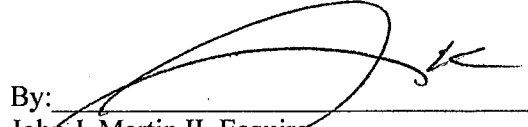
30. Plaintiff John J. Martin, Esquire, as Executor of the Estate of Gregory Scheer Sr., brings a survival action for the above-mentioned injuries and pain and suffering before his death that was proximately caused by the strict liability design and/or assembly defect and negligence claims against Defendant as set forth above.

WHEREFORE, Plaintiff, John J. Martin, Esquire, as Executor of the Estate of Gregory Scheer Sr., demands judgment against the Defendants for One Million (\$1,000,000.00) Dollars and 00/100 in compensatory damages plus interest and cost.

DEMAND FOR JURY TRIAL

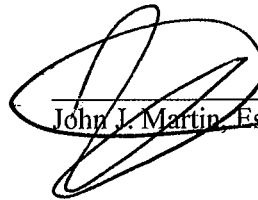
Plaintiffs demand a trial by jury.

Respectfully Submitted,

By: 
John J. Martin II, Esquire
1022 Court Street
Honesdale, Pennsylvania 18431
(570) 253-6899
jmartin@martin-law.net
Attorney for Plaintiffs

VERIFICATION

I, John J. Martin, Esq. verify that I am authorized to make this verification and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that this verification is made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.



John J. Martin, Esq.

IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY
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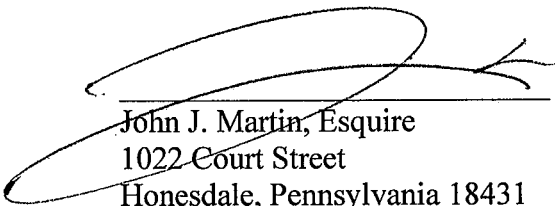
NO. 256 -2020-CIVIL

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I hereby certify that this filing complies with the provisions of the Public Access Policy
of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts
that request filing confidential information and documents differently that non-confidential
information and documents.

Respectfully submitted,

Date: 2/12/21


John J. Martin, Esquire
1022 Court Street
Honesdale, Pennsylvania 18431
(570) 253-6899
jmartin@martin-law.net

PROthonotary AND
CLERK OF COURTS
WAYNE COUNTY, PA
2021 FEB 12 A 11:19

SHORT CERTIFICATE - LETTERS OF ADMINISTRATION DBNCTA

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF WAYNE:

I, Deborah L Bates, Register of Wills in and for the County of Wayne, in the Commonwealth of Pennsylvania, DO HEREBY CERTIFY that on the 16th day of December 2019, LETTERS OF ADMINISTRATION DBNCTA on the Estate of

GREGORY C SCHEER SR

deceased, were granted to

JOHN J MARTIN

having first been qualified well and truly to administer the same. And I further certify that no revocation of said letters appears of record in my office.

Date of Death: 12/7/2019

Social Security No. 087-30-4392

Wayne County No. 33255

Given under my hand and seal of office this
16th day of December 2019.

Deborah L Bates

Register

NOT VALID WITHOUT ORIGINAL SIGNATURE AND IMPRESSED SEAL

Exhibit "A"

Exhibit B

*Original Death Certificate filed in Wayne County Courthouse

See back of receipt for your chance
to win \$1000 ID #: 7N87T10VM85

Walmart *

570-251-9549 Mgr: REGINALD MCCLEESE
777 OLD WILLOW AVE
HONESDALE PA 18431

STW 02480 OPH 006171 TEN 08 TRW 04624	
HAND CREAM 007050101300	3.68 X
MICHELIN HE 008615919150	4.97 X
ITAL SLICE 020016660100 F	1.00 H
MH9BX HEATER 008930132161	74.00 X
PROPANE CYL 001404532423	6.44 X
PROPANE CYL 001404532423	6.44 X
SUBTOTAL	96.53
TAX 1 6.000 %	5.74
TOTAL	102.27

UISA TEND 102.27

Visa Credit **** * 2042 1 1

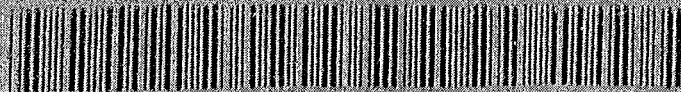
APPROVAL # 07849C
REF # 933700943435
TRANS ID - 309337468593322
VALIDATION - 55F3
PAYMENT SERVICE - E
AID A0000000031010
TC 555B11F585855AEE
TERMINAL # SC010656
*NO SIGNATURE REQUIRED

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CHANGE DUE 0.00

ITEMS SOLD 6

TCW 1964 0135 8590 0264 3433 9

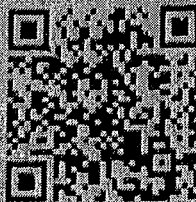


Low Prices You Can Trust. Every Day.

12/03/19 08:01:02

CUSTOMER COPY

Scan with Walmart app to save receipts





CFS FORENSIC SERVICES LLC

5787 Oak Street
Mays Landing, New Jersey 08330
(609) 742-7733
info@CFSForensicServices.com
www.CFSForensicServices.com

ERH
12-26-19

Postmortem Report: 2019-1207-01

Name: Gregory C. Scheer, Sr.

Authorizing Agency: Wayne County Coroner

Investigating Agency: Pennsylvania State Police

Pronouncement Date: 12/07/2019

Autopsy Date: 12/10/2019

Performed By: Charles F. Siebert, Jr., MD

CAUSE OF DEATH: Inhalation of Products of Combustion

DUE TO: Structure fire

MANNER OF DEATH: Accident

COPY

Exhibit "D"

Scheer, Sr., Gregory C.

2019-1207-01

December 10, 2019

CERTIFICATION OF AUTOPSY PROCEDURE: I hereby certify that I, Charles F. Siebert, Jr., MD, Forensic Pathologist, have performed an autopsy on the identified, refrigerated and unembalmed body of Gregory C. Scheer, Sr., case number 2019-1207-01, on December 10, 2019, at Northeast Forensic Center, Dunmore, PA. The autopsy started at 1100 hours and was completed at 1200 hours. This autopsy was performed with the assistance of Forensic Technician Louis Stefanelli, and in the presence of Jim Hitchcock and Sandy Fulvender of the Pennsylvania State Police and Ed Howell, Mark James and Laura Swingle of the Wayne County Coroner's Office.

CLOTHING AND PERSONAL PROPERTY:

Several small fragments of clothing are received in the transport bag with the body.

EXTERNAL EXAMINATION:

The body is that of a well-developed, well-nourished male having an approximate height of 66 inches and a weight of 95 lbs., in a severe state of charring with only focal sparing of skin on the posterior left shoulder and hip.

No scalp is remaining and there are multiple fractures of the cranium from thermal injuries. The nasal and facial bones are intact to palpation. The dentition is natural and in good repair except for thermal injury to the anterior teeth.

The neck is symmetrical with no crepitus or masses palpated. The trachea is in the midline.

The thorax is symmetrical with no crepitus. Pacemaker lead wires are evident exiting the left subclavicular area muscle. No pacemaker is recovered. The abdomen is flat with no evidence of masses.

The external genitalia are those of a normally formed male with bilaterally descended testes.

The upper and lower extremities have no abnormalities other than the thermal injuries to be described below.

The back is symmetrical.

POSTMORTEM CHANGES:

Postmortem changes are difficult to assess due to thermal injuries. There is no evidence of decomposition.

Scheer, Sr., Gregory C

2019-1207-01

December 10, 2019

EVIDENCE OF MEDICAL INTERVENTION:

None.

IDENTIFYING MARKS AND SCARS:

No scars can be determined.

EVIDENCE OF INJURY:

There is full thickness charring of the entire body surface except for focal sparing of the left posterior shoulder and posterior left hip. The distal aspects of the bilateral upper and left lower extremities are absent due to thermal injuries. The thermal injury of the right lower extremity involves absence of tissue distal to the lower thigh. The extremities are flexed into a "pugilistic" pose. The cranial vault has multiple thermally related fractures with exposure of the underlying brain. The exposed neck structures reveal charring of the thyroid gland. The lower lateral right chest wall and anterior abdominal wall are absent with exposure of the internal organs. The right lung, liver and right kidney have moderate thermal injury and charring. Several exposed loops of bowel have charring injury.

Internal examination of the airway reveals a thick layer of black particulate matter on the mucosa of the oral and nasal cavities, the larynx, the trachea and the proximal bronchi.

INTERNAL EXAMINATION:

Body Cavities: The organs are in their normal anatomic positions.

Neck: The cervical vertebrae, hyoid bone, tracheal and laryngeal cartilages and paratracheal soft tissues show no evidence of trauma except for external charring. The upper airway is patent with the black material described above.

Cardiovascular System: The heart weighs 580 grams and has a smooth epicardial surface and a normal amount of fat. The coronary arteries arise normally from the aorta, and the coronary artery ostia are patent. The coronary arteries have moderate atherosclerosis. The myocardium is homogeneous, red-brown and firm, with no pallor, hemorrhage, softening or fibrosis. The endocardial surfaces and four cardiac valves are unremarkable. Pacemaker leads are in the myocardium and are unremarkable. The aorta has moderate calcific atherosclerosis. The venae cavae and pulmonary arteries and veins show no evidence of thrombus or embolus.

Scheer, Sr., Gregory C

2019-1207-01

December 10, 2019

Respiratory System: The right lung weighs 440 grams, and the left lung weighs 360 grams. The pleural surfaces are purple-grey, smooth and glistening with focal thermal injury to the exposed lateral right lower lobe. The parenchyma has moderate congestion and mild edema but no consolidation, infarcts, abscesses or masses. The bronchi are patent and have the particulate matter described above. The blood vessels have no thromboembolism or injury.

Liver, Gallbladder and Pancreas: The liver weighs 1380 grams and has an intact capsule and a sharp anterior margin with charring and thermal injury as described above. The parenchyma is red-brown with no visible fibrosis and a well-maintained lobular architecture. The gallbladder contains approximately 5 cc of green-yellow bile with no calculi. The pancreas is unremarkable in color, lobulation and texture.

Lymphopoietic System: The spleen weighs 170 grams and has an intact capsule. The color, red and white pulp and consistency are unremarkable. There are no visibly enlarged lymph nodes. The bone marrow is grossly unremarkable.

Genitourinary System: The right kidney weighs 140 grams and the left kidney weighs 220 grams each. Each kidney has a normal shape with smooth surfaces and no pitting or scarring except for the injury to the right kidney described above. The renal arteries and veins are patent. The parenchyma is firm and red-brown with distinct corticomedullary junctions and cortices of normal thickness. The calyces and pelves are unremarkable. The ureters maintain uniform caliber into an unremarkable bladder that contains no urine. The bladder wall and mucosa is unremarkable.

The prostate is grossly normal in size and consistency.

Endocrine System: The thyroid has the injuries described above and the adrenal glands are normal in color, size and consistency.

Gastrointestinal Tract: The esophagus and gastroesophageal junction are unremarkable. The stomach contains approximately 20 cc of tan liquid. There is no evidence of intact pills. The gastric mucosa has normal rugal folds. The small bowel, large bowel and appendix have smooth tan serosal surfaces and are unremarkable except as described above.

Musculoskeletal System: The vertebrae, clavicles, ribs, sternum and pelvis show no evidence of fractures other than those described above. The musculature is normally developed and unremarkable except as described above.

Scheer, Sr., Gregory C.

2019-1207-01

December 10, 2019

Histopathology: Sections are retained.

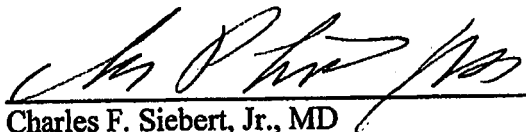
Toxicology: Specimens are submitted for carboxyhemoglobin screening
Results: 27.2%

PATHOLOGIC FINDINGS:

1. Black particulate matter on mucosa of: Nasal and oral cavities, larynx, trachea and proximal bronchi
2. Full thickness burns of >95% of body surface
3. Flexion of elbows, knees and hips
4. Thermally related fractures of skull and distal upper and lower extremities
5. Internal charring of thyroid gland, right lower lobe of lung, liver, right kidney, intestines

SUMMARY:

Mr. Scheer was an 81 year old male who was in a hunting shed when an explosion occurred from a portable propane heating unit that then ignited several additional propane canisters as well as the entire structure. Mr. Scheer succumbed to the effects from inhaling smoke and soot from the fire. The autopsy revealed black particulate matter in the airways as well as marked thermal charring. Carboxyhemoglobin analysis of his blood was 27.2%. A critical value for this test is >20%.



Charles F. Siebert, Jr., MD
Forensic Pathologist

Date 12-19-2019